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10 **IN THE SUPREME COURT**
11 **STATE OF ARIZONA**

12 In the Matter of:

Supreme Court No. R-15-0022

13 **PETITION TO AMEND RULE**
14 **38(d), RULES OF THE SUPREME**
15 **COURT**

16 **COMMENT OF**
17 **THE STATE BAR OF ARIZONA**

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19 **I. BACKGROUND OF PETITION**

20 Professor Paul Bennett, Clinical Professor, University of Arizona James E.
21 Rogers School of Law, has proposed amending Rule 38(d), Rules of the Supreme
22 Court, to allow law students to obtain limited practice certification after
23 completing only two, rather than the current three, semesters or equivalent hours at
24 an accredited law school. While the intent in providing law students additional
25 clinical experience is laudable, the State Bar of Arizona has some concerns with
the proposal and opposes it.

II. DISCUSSION/ANALYSIS

Under Arizona Supreme Court Rule 38(d), law students in Arizona may be

1 authorized to practice law as a certified limited practice student under the
2 supervision of a practicing attorney. The qualified supervising attorney is usually
3 an attorney in a private or public law office or a public agency that accepts the
4 student. The current rule requires completion of “at least three semesters” (or
5 equivalent academic hour credits) at an accredited law school before a student may
6 become certified for limited practice. 17A A.R.S. Supreme Court Rules, Rule
7 38(d)(5)(A)(i). In addition, the limited practice student must be certified by the
8 dean of the accredited school as having “either successfully completed or being
9 currently enrolled in and attending, academic courses in civil procedure, criminal
10 law, evidence, and professional responsibility.” Rule 38(d)(5)(A)(iv).

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14 In prosecutor offices across the state, line prosecutors are normally assigned
15 to be the supervising attorney for the limited practice student and must train and
16 supervise these students so that they can handle pretrial conferences, court
17 hearings, and even trials. Under the proposed petition students would be eligible to
18 perform these functions after only one year of law school. In only their first year
19 of law school, however, it is doubtful law students would have completed all the
20 requisite legal courses in civil procedure, criminal law, evidence and professional
21 responsibility, and would not be guaranteed to have completed a basic course in
22 criminal procedure, before being eligible to obtain a limited practice certification.
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25 The burden of training and supervising these students without basic course studies

1 and proficiencies in some of the key areas of practice, including criminal
2 procedure, along with the liability involved in potential malpractice in these areas,
3 would fall on prosecutors who are already overburdened and may not have
4 adequate time or ability to provide the necessary legal training to these students.
5 That responsibility should be with the law school educating the students. There is
6 also a potential harm to the public and to the administration of justice from
7 students practicing in areas of law where they are not professionally prepared to do
8 so.
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11 Although the petition cites ten states, mainly in the Midwest and east coast,
12 that allow eligibility at completion of less than three semesters, most west coast
13 states almost unanimously require three or more semesters of law study before a
14 student is eligible for certification. Even California, a state cited by petitioner in
15 support of his proposal, requires a minimum of 270 hours:
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17 **Washington:** “(B) Eligibility. To be eligible to apply to be a
18 Licensed Legal Intern, an applicant must have arranged to be
19 supervised by a qualifying lawyer and: (1) Be a student duly enrolled
20 and in good academic standing at an approved law school who has:
21 (A) *successfully completed not less than two-thirds of a prescribed*
22 *3-year course of study* or five-eighths of a prescribed 4-year course of
study;”[.] Admission and Practice Rule 9, Licensed Legal Interns,
Rules of Washington Supreme Court.

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24 **Oregon:** “(1) To be eligible for certification pursuant to these rules, a
25 law student must: ... (b) Have *completed legal studies amounting to*
at least four semesters of full-time law study or the equivalent;” Rule

1 13.20(1)(b), Oregon Supreme Court Rules of Admission of Attorneys.

2 **Idaho:** “(b) Qualifications of Legal Intern. To qualify for a legal
3 intern license, the applicant must: ... (2) be a student duly enrolled
4 and in good academic standing at an Approved Law School with
5 *completed legal studies totaling not less than two-thirds of a*
6 *prescribed three-year-course of study*”[.] Rule 226, Legal Intern
License, Idaho Bar Commission Rules, Rules of Supreme Court.

7 **Colorado:** “(i) In order to be eligible to make an appearance and
8 participate pursuant to section (2)(a), a law student must: ... (B) *Have*
9 *completed a minimum of two years of legal studies;*”. Rule 205.7(2)
10 (b)(i)(B); Law Student Practice, Colorado Supreme Court; see also
Rule 226.5(2)(B)(1), Colorado Rules of Civil Procedure.

11 **California:** “(c) Eligibility for certification. To be eligible to become
12 a certified law student, an applicant must: (1) *Have successfully*
13 *completed one full year of studies (minimum of 270 hours) at a law*
14 *school* accredited by the American Bar Association or the State Bar of
15 California, or both, ... and (3) Have either successfully completed or
be currently enrolled in and attending academic courses in evidence
and civil procedure.” Rule 9.42. Certified Law Student, California
Rules of Court.

16 The State Bar of Arizona agrees with the petitioner that law students benefit
17 from clinical experience in law school. But until it can be assured that law
18 students have sufficient training and proficiency in key areas of law practice before
19 being eligible for limited practice certification, eligibility criteria should continue
20 to require the completion of “at least three semesters” of education at an accredited
21 law school.
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23 **III. CONCLUSION**


24 The State Bar of Arizona respectfully requests that the Arizona Supreme
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1 Court reject the proposal in R-15-0022 to amend Rule 38(d), Rules of the Supreme
2 Court, allowing law students to obtain limited practice certification after
3 completing only two, rather than the current three, semesters or equivalent hours at
4 an accredited law school. Although the intent behind the proposal is laudable,
5 allowing law students to be eligible for limited practice certification after
6 completing only two semesters of education is not in line with other west coast
7 states and has practical issues of concern.
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10 RESPECTFULLY SUBMITTED this 5th day of May, 2015.

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14 John Furlong
General Counsel

15 Electronic copy filed with the
16 Clerk of the Arizona Supreme Court
this 18th day of May, 2015.

17 by: 
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